

Accounts of
administra-
tion, and
the conduct
of execu-
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administra-
tors relative
to paying
and collect-
ing debts.

decrees, a proportionable division or dividend shall be made between the judgment and decree creditors.

The residue of this section was repealed by 1802, ch. 101.

By the act of congress, 3d March, 1798 and 1799, debts due to the United States are to be preferred. By 1729, ch. 124, sec. 15, ante page 74, debts due the Lord Proprietary are to be preferred. By 1836, ch. 192, executor must pay the rent due at the time of the death of the testator, and which was liable to be distrained for. This act is not referred to in the index of the laws for that year, nor in the general index made by the authority of the state.

SEC. 18. If a claim be exhibited against an executor or administrator, which he shall think it his duty to dispute or reject, he may retain in his hands assets proportioned to the amount of the claim, which assets shall be liable to other claims, or be delivered up or distributed as hereafter mentioned, in case the claim be not established; and if on any claims exhibited and disputed as aforesaid, the creditor or claimant shall not, within nine months after such dispute or rejection, commence a suit for recovery, the said creditor or claimant shall be for ever barred; and the executor or administrator may plead this act in bar, together with the general issue, or other plea proper to bring the merits of the cause to trial; and, on any dividend to be made nine months after such dispute or rejection, and failure to bring suit, the executor or administrator may proceed to pay, or distribute, as if he had not knowledge or notice of such claim, or as if it did not exist, but if the claim be put in suit within the nine months, it may be ascertained by verdict or otherwise, and the court shall proceed as herein before directed, regard being had to the rules herein before laid down as to the notice to be given by the executor or administrator, and distribution or payment to be made after such notice.

SEC. 19. In no case shall an executor or administrator be allowed to retain for his own claim against the deceased, unless the same be passed by the orphans court, and every such claim shall stand on equal footing with other claims of the same nature.

SEC. 20. The bare naming of an executor in a will shall not operate to extinguish any just claim which the deceased had against him, but it shall be the duty of every such executor, accepting the trust, to give in such claim in the list of debts, and on his failure to give in such claim, or any part thereof, any person interested in the administration may allege the same, by petition to the orphans court granting the administration, and the said court, with consent of the parties, may decide on the same, or it may be referred by the parties, with the court's approbation, or, at the instance of either party, the court may direct an issue or issues to be tried, and the same shall be tried in any court of law proper for the trial, and most conve-